THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION Nos.14359 & 15169 OF 2004

ORAL COMMON ORDER:

The petitioner in these two writ petitions was entrusted with different works covered by Food For Work Programme. Accordingly, the 1st respondent-Superintending Engineer, R & B Circle, Khammam, entered into agreements with the petitioner. Petitioner states that he has successfully completed all the works entrusted to him; however, while effecting payments against the running bills of the contractor, certain amounts were deducted by the respondents towards the cost of rice covered by the agreements, collecting at the rate of Rs.7.20 ps per kg. Petitioner contends that the rate at which the respondents have deducted the cost of rice was against the contract rate of Rs.5.65 per kg and that the respondents are not entitled to withhold the value of the rice in excess of Rs.5.65 per kg. Hence, this writ petition seeking a writ of mandamus declaring the action of the respondents in resorting to recovery of the value of rice at Rs.7.20 ps per kg as against Rs.5.65 ps per kg, provided for in the contract in respect of the agreements in question, as arbitrary and illegal; and, consequently, to direct the respondents to release the difference in amount illegally withheld as well as the earnest money deposit, in terms of the contractual clause.

In both the writ petitions, the Executive Engineer, R & B Division, Khammam, filed counter-affidavits opposing the relief sought in the writ petitions.

Heard the learned counsel for both the parties, and perused the material on record.

At the outset, it is to be noted that the matter involves several disputed questions of fact, and the relief sought is nothing but enforcement of terms and conditions of concluded contract between the parties. Hence, even assuming that there is any breach of terms and conditions of the contract, the proper remedy for the petitioner is to

avail the common law remedy, but he cannot be permitted to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

In W.A.No.1154 of 2004, a Division Bench of this Court while considering an identical case, by Judgment dated 19.8.2004, held that the dispute is in the realm of private law remedy, which requires to be resolved in a properly constituted proceeding in accordance with the terms and conditions of agreement entered into between the parties. Hence, no writ of mandamus as prayed for can be issued.

However, keeping in view that the bills submitted by the petitioners are still pending with the respondents, I deem it appropriate to dispose of the writ petitions with a direction to the respondents to settle the final bills as expeditiously as possible, in accordance with law, preferably within a period of six weeks from the date of receipt of a copy of this order.

The writ petitions are accordingly, disposed of. No costs.

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(G. ROHINI, J.)

14th July, 2006.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION Nos.14359 & 15169 OF 2004

14th July, 2006.

W.P.No.14359 of 2004:

Between:

K.Y.V. Ranga Rao. .. Petitioner.

And

Superintending Engineer,
R & B Circle, Khammam and two others. ..
Respondents.

And

W.P.No.15169 of 2004:

Between:

K.Y.V. Ranga Rao. .. Petitioner.

And

Superintending Engineer,
R & B Circle, Khammam and two others. ..
Respondents.